

§ 3500.18

the escrow account. If a servicer has not established an escrow account for a federally related mortgage loan and only receives payments for discretionary items, this section is not applicable.

(Approved by the Office of Management and Budget under control number 2502-0501)

[61 FR 13233, Mar. 26, 1996, as amended at 61 FR 46510, Sept. 3, 1996; 61 FR 50219, Sept. 24, 1996; 61 FR 58476, Nov. 15, 1996; 63 FR 3236, Jan. 21, 1998]

EFFECTIVE DATE NOTE: At 68 FR 12789, Mar. 17, 2003, §3500.17 was amended by revising paragraph (m)(1), effective Apr. 16, 2003. For the convenience of the user, the revised text follows:

§ 3500.17 Escrow accounts.

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(m) *Penalties.* (1) A servicer's failure to submit to a borrower an initial or annual escrow account statement meeting the requirements of this part shall constitute a violation of section 10(d) of RESPA (12 U.S.C. 2609(d)) and this section. For each such violation, the Secretary shall assess a civil penalty of 65 dollars (\$65), except that the total of the assessed penalties shall not exceed \$120,000 for any one servicer for violations that occur during any consecutive 12-month period.

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§ 3500.18 Validity of contracts and liens.

Section 17 of RESPA (12 U.S.C. 2615) governs the validity of contracts and liens under RESPA.

§ 3500.19 Enforcement.

(a) *Enforcement policy.* It is the policy of the Secretary regarding RESPA enforcement matters to cooperate with Federal, State or local agencies having supervisory powers over lenders or other persons with responsibilities under RESPA. Federal agencies with supervisory powers over lenders may use their powers to require compliance with RESPA. In addition, failure to comply with RESPA may be grounds for administrative action by the Secretary under part 24 of this title concerning debarment, suspension, ineligibility of contractors and grantees, or under part 25 of this title concerning the HUD Mortgagee Review Board.

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Nothing in this paragraph is a limitation on any other form of enforcement which may be legally available.

(b) *Violations of section 8 of RESPA* (12 U.S.C. 2607), § 3500.14, or § 3500.15. Any person who violates §§3500.14 or 3500.15 shall be deemed to violate section 8 of RESPA and shall be sanctioned accordingly.

(c) *Violations of section 9 of RESPA* (12 U.S.C. 2608) or § 3500.16. Any person who violates section 3500.16 of this part shall be deemed to violate section 9 of RESPA and shall be sanctioned accordingly.

(d) *Investigations.* The procedures for investigations and investigational proceedings are set forth in 24 CFR part 3800.

§ 3500.20 [Reserved]

§ 3500.21 Mortgage servicing transfers.

(a) *Definitions.* As used in this section:

Master servicer means the owner of the right to perform servicing, which may actually perform the servicing itself or may do so through a subservicer.

Mortgage servicing loan means a federally related mortgage loan, as that term is defined in §3500.2, subject to the exemptions in §3500.5, when the mortgage loan is secured by a first lien. The definition does not include subordinate lien loans or open-end lines of credit (home equity plans) covered by the Truth in Lending Act and Regulation Z, including open-end lines of credit secured by a first lien.

Qualified written request means a written correspondence from the borrower to the servicer prepared in accordance with paragraph (e)(2) of this section.

Subservicer means a servicer who does not own the right to perform servicing, but who does so on behalf of the master servicer.

Transferee servicer means a servicer who obtains or who will obtain the right to perform servicing functions pursuant to an agreement or understanding.

Transferor servicer means a servicer, including a table funding mortgage broker or dealer on a first lien dealer loan, who transfers or will transfer the right to perform servicing functions